

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Petition of the Embarq Local Operating Companies)	
For Forbearance Under 47 U.S.C. §160(c) From)	
Application of <i>Computer Inquiry</i> and certain)	
Title II Common-Carrier Requirements)	
)	WC Docket No. 06-147
Petition of the Frontier and Citizens ILECs For)	
Forbearance Under Section 47 U.S.C. §160(c))	
From Title II and <i>Computer Inquiry</i> Rules With)	
Respect to Their Broadband Services)	

COMMENTS IN SUPPORT OF PETITION

The Embarq Local Operating Companies,¹ hereby respectfully Comment on the above-captioned Petition in response to the Public Notice (“PN”), released August 23, 2006 (DA 06-1671). As demonstrated below, forbearance should be granted. However, in voicing its support of Frontier and Citizens Petition, Embarq is mindful of the Commission’s admonition in the PN to not duplicate arguments previously filed in this docket. Therefore, Embarq will be brief.

As noted in Embarq’s own August 17, 2006 Comments and August 31, 2006 Reply Comments in this docket and in the RBOC Forbearance Docket (WC Docket No. 06-147), the

¹ On May 17, 2006, Sprint Nextel Corporation transferred the Sprint Local Operating Companies that were Sprint’s incumbent local exchange carrier operations by means of a stock dividend to shareholders and the creation of a new holding company, Embarq Corporation. The former Sprint Local Telephone Operating Companies are now the Embarq Local Operating Companies, are subsidiaries of Embarq Corporation, and are independent of Sprint Nextel Corporation.

standard for forbearance in Section 10(c) (47 U.S. C. § 160(c)) has been met. The *Earthlink*² decision, dealing specifically with forbearance and broadband, conclusively established that the Commission is not required to conduct a product-by-product, geographic market-by-geographic market analysis as has been urged by some commenters in this docket and the RBOC Forbearance Docket. Rather, the Commission may view the broadband services in question as part of a nation wide market. Furthermore, Section 706 directs the Commission to take a forward looking view of the degree of competition in emerging markets, like broadband, and *Earthlink* specifically approved of the Commission taking such a forward looking view in a forbearance case.

The facts are well established in the record. Competition in the nation wide broadband market is robust and the Commission is correct that there is a well reasoned expectation of continued and increased robust competition. Applying the legal framework set out above to these facts, it is clear that each of the three prongs of the Section 10(c) statutory test for forbearance has been met, and forbearance is justified and necessary to promote the public interest and advance broadband deployment in areas served by independent local exchange carriers, such as Frontier and Citizens (as well as Embarq).

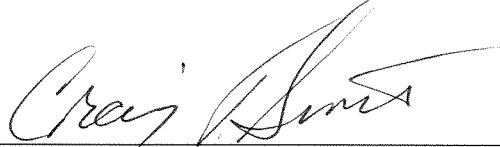
Forbearance is in the public interest, and the continued imposition of narrowband-era Title II and *Computer Inquiry* requirements is counterproductive from both a consumer and competitive perspective and indeed, enforcement of narrowband legacy regulation is not needed to protect consumers or to ensure that the charges, practices, classification, or regulation of broadband service are not unjustly and unreasonable nondiscriminatory.

² *EarthLink, Inc. v. FCC*, D.C. Circuit, No. 05-1087, 2006 U.S. App. LEXIS 20819, Decided August 15, 2006, (“*EarthLink*”).

This legal framework and the factual record established in this docket and the RBOC Forbearance Docket applies to and demands the grant of the Citizens and Frontier Petition, as well as the Petition of Embarq in this docket.

Respectfully submitted,

Embarq Local Operating Companies

By 

Craig T. Smith
KSOPJ0401
5454 W. 110th Street
Overland Park, KS 66211
(913) 345-6691

September 13, 2006

Certificate of Service

I hereby certify that I have this 13th day of September 2006 served the following parties with a copy of the foregoing Comments in Support of the Frontier and Citizens Petition for Forbearance in WC Docket No. 06-147 by the method noted.

By ECFS:

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
The Portals, 445 12th Street, S. W.
Room TW-A325
Washington, D. C. 20554

By Electronic Mail:

Best Copy and Printing, Inc.
The Portals, 445 12th Street, S. W.
Room CY-B402
Washington, D. C. 20554
FCC@bcpiweb.com

William Kehoe
Competition Policy Division
Wireline Competitive Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554
william.kehoe@fcc.gov

Thomas Navin, Chief
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554
thomas.navin@fcc.gov

Janice Myles
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W., Suite 5-C327
Washington, D. C. 20554
janice.myles@fcc.com

Julie Veach, Deputy Bureau Chief
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554
julie.veach@fcc.gov

Marcus Maher
Legal Counsel to the Bureau
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554
Marcus.maher@fcc.gov

By U. S. Mail:

Craig J. Brown
Robert B. McKenna
Daphne E. Butler
Qwest Corp.
607 14th Street, N. W., Suite 950
Washington D. C. 20005

David Lawson
Sidley Austin LLP
1501 K Street, N.W.
Washington, DC 20005

Jack S. Zinman
Gary L. Phillips
Paul K. Mancini
AT&T Inc.
1120 20th Street, N.W., Suite 1000
Washington, D.C. 20036

Bennett L. Ross
BellSouth Corp
1133 21st Street, N.W., Suite 900
Washington, D. C. 20036

Richard M. Sberatta
675 West Peachtree Street, N.E., Suite 4300
Atlanta, GA 30375-0001

Stuart Polikoff
Stephen Pastorkovich
Brian Ford
21 Dupont Circle, N.W., Suite 700
Washington, DC 20036

David N. Baker
Earthlink, Inc.
1373 Peachtree Street, Level A
Atlanta, GA 30309

Donna N. Lampert
Mark J. O'Connor
Jennifer L. Phurrough
Lampert and O'Connor, P.C.
1776 K Street N.W., Suite 700
Washington, DC 20008

Brad Mutschel Knaus
Edward A. Yorkgitis, Jr.
Kelley Drye & Warren LLP
3050 K Street NW, Suite 400
Washington, DC 20007

D. Michael Anderson
Donald G. Henry
115 S. Second Avenue West
Newton, IA 50208

Thomas Jones
Jonathan Lechter
Wilkie Farr & Gallagher LLP
1875 K Street N.W.
Washington, DC 20006

Deema M. Singh
31 Clinton Street, 11th Floor
Newark, NJ 07101

Douglas E. Hart
2200 PNC Center
201 East Fifth Street
Cincinnati, OH 45202

John E. Benedict
401 9th Street NW, Suite 400
Washington, DC 20004

Mary C. Albert
Comptel
1900 M Street NW, Suite 800
Washington, DC 20036


Andrew D. Lipman
Russell M. Blau
Patrick J. Donovan
Bingham McCutchen, LP
3000 K Street, NW, Suite 300
Washington, DC 20007

Karen Brinkmann
Latham & Watkins LLP
555 Eleventh Street, NW, Suite 1000
Washington, DC 20004-1304

Kenneth Mason
Gregg C. Sayre
180 South Clinton Avenue
Rochester, NY 14646

Lee L. Selwyn
Susan M. Gately
Economics and Technology, Inc.
Two Center Plaza, Suite 400
Boston, Massachusetts 02108-1906

Colleen Boothby
Levine, Blaszak, Block & Botthby, LLP
2001 L Street NW, Suite 900
Washington, D.C. 20036



Craig T. Smith